

VZCZCXR09645
PP RUEHCHI RUEHDT RUEHHM
DE RUEHJA #1306/01 1290541

ZNY CCCCC ZZH
P 090541Z MAY 07
FM AMEMBASSY JAKARTA

TO RUEHC/SECSTATE WASHDC PRIORITY 4649
INFO RUEHZS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS PRIORITY
RUEHJA/ISLAMIC CONFERENCE COLLECTIVE PRIORITY
RUEHBY/AMEMBASSY CANBERRA PRIORITY 0732
RUEHWL/AMEMBASSY WELLINGTON PRIORITY 1491
RUEKJCS/SECDEF WASHDC PRIORITY
RHEHNSC/NSC WASHDC PRIORITY
RUEATRS/DEPT OF TREASURY WASHDC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 06 JAKARTA 001306

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E.O. 12958: DECL: 05/08/2012

TAGS: [PGOV](#) [PHUM](#) [KISL](#) [SOCI](#) [ID](#)

SUBJECT: THE GREENING OF SOCIETY: LOCAL SHARI'A LAWS SHOW NO SIGNS OF ABATING

REF: JAKARTA 821

Classified By: Political Officer Catherine E. Sweet, Reason 1.4(d)

¶1. (C) Summary. Recent growth in local bylaws based on Islamic law (perda syariah) has been exponential, totaling at least 46 by early 2007. While many refer directly to shari'a and Islamic praxis, most bylaws address issues of morality, allowing their proponents to argue -- however disingenuously -- that the regulations are not religiously based and making the edicts more palatable to individuals who might otherwise oppose Islamic law. Most Muslim opinion leaders with whom we have spoken expressed mixed feelings about the perda syariah that generally reflect the public's ambivalence, while significantly fewer condemned the laws. Although opponents contend that the regulations violate the constitution and Indonesia's decentralization regulations, the Supreme Court recently upheld the only perda syariah contested in court to date, and legal experts argue that the Constitutional Court has no jurisdiction over local regulations. While the Home Affairs Ministry does have the statutory authority to void the laws, it has declined to become involved, as has the central government more broadly. Explanations for the explosion of perda syariah focus on sociological rather than ideological factors, centered on the social and political dislocation that followed the end of authoritarianism. And although most of our contacts agree that the number of perda syariah will continue to increase in the shorter term, they believe that this is a largely temporary phenomenon in most areas. Meanwhile, unintended consequences of the perda syariah movement include a growing militant movement on the predominantly Hindu island of Bali and the passage of a "Christian perda" in Manokwari, West Irian Jaya. End Summary.

¶2. (U) In February, the West Sumatran provincial legislature passed a regulation requiring public schools to teach the Qur'an to all Muslim primary and secondary school students and compelling Muslims wishing to marry to demonstrate their ability to read and write portions of the Qur'an in Arabic. It is the latest in a series of local law based on Islamic dictates that have been passed over the past seven years. Recently, the growth in what are known locally as "perda syariah" has been exponential. By early 2007, the Indonesian Women's Coalition had documented 46 different shari'a bylaws that are in place and eight that are in draft, a total that has more than doubled in the last year alone. Most of these regulations have been implemented at the sub-provincial regency or city level, although a handful have been passed by provincial legislatures. Most perda syariah are concentrated in four provinces: West Sumatra, West Java and Banten, and

South Sulawesi, with others scattered elsewhere in Java, Sumatra, Sulawesi, East and West Nusa Tenggara, Lombok, Kalimantan, Madura, the Riau Islands and, of course, Aceh.

Perda Syariah: A Broad Appellation

13. (U) Of the four dozen or so "perda syariah," only about 15 percent of the refer directly to shari'a. For example, a 2002 regulation in West Java's Garut regency authorized the creation of an institution that would research how to apply shari'a law; two other laws established similar institutions in Cianjur, West Java and Madura. In South Sulawesi's Maros regency, a new institution was created to oversee alms-giving (one of the five pillars of Islam), specify how much residents should donate, and how often.

14. (C) A further one-third of the perda syariah are linked to Islamic praxis. Several require students and those seeking marriage licenses to demonstrate proficiency in reading the Qur'an in Arabic (South Sulawesi's Bulukumba, Maros and Enrekang regencies; and West Sumatra's Lima Puluh Kota and Pesisir Selatan, and Solok regencies), while others oblige Muslims to wear "Islamic" clothing. However, definitions of who must wear such attire and what constitutes proper clothing vary. In Maros, South Sulawesi, for instance, all male Muslim civil servants and students must wear long pants with short- or long-sleeved shirts (including while exercising), while women must wear loose, long-sleeved shirts that cover their rear ends, long skirts or slacks that reach the ankle, and veils that cover their "aurat" (literally, aurat is the Arabic term for genitalia; its meaning has been broadened, however, to include all areas

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that certain Muslims believe cannot be exposed in public. In this case, aurat includes a woman's hair, neck and breasts). According to the text, the legislation seeks to instill "Muslim character and morality," as manifested in the wearing Muslim clothing, which demonstrates one's Muslim identity and devotion to the faith.

Shari'a Regulations or Morality Laws?

15. (SBU) In large part, however, Indonesia's perda syariah are concerned with issues of morality, allowing their proponents to argue)- however disingenuously -- that the regulations are not religiously based. Of these "morality laws," about fifteen percent are specifically concerned with outlawing prostitution while another twenty-five percent are devoted to "combating immorality."

16. (U) The anti-prostitution edicts are quite far-reaching in defining solicitation. The most notorious is Tangerang's 2005 law, which stipulates that in this city on the outskirts of Jakarta, "every person whose appearance or conduct is suspicious, such that it produces an opinion that he/she/they are prostitutes, are forbidden from being in a street, field, lodge, guest house, hotel, boarding house, rented house, coffee stall, entertainment center, movie theater, street corner, dead-end street, or other place in the district." In early 2006, Tangerang's authorities picked up and prosecuted some two dozen women for violating the law; among them was a married woman named Lili Lindawati, who had left her office at 8:00 PM and was awaiting a bus to take her home.

According to Lindawati, the police brandished a tube of lipstick they found in her purse as proof that she was a prostitute. After being imprisoned for four days and fined, Lindawati appealed her conviction. She was unsuccessful, however, and on March 1 the Supreme Court unanimously upheld the lower court's ruling; there are no further avenues for appeal.

17. (U) Like the prostitution statutes, the "combating immorality" laws are similarly broad, encompassing a

multitude of sins both defined and deliberately left vague. In the West Sumatran city of Bukittinggi, for example, a 2000 law on "Controlling and Taking Action against Social Ills" criminalizes prostitution; the use of narcotics and alcohol; eating, drinking, and serving food during the fasting month of Ramadan; and gambling. It also forbids a woman from wearing clothing that "may stimulate sexual desire of men who see her in a public place;" such clothing includes anything that reveals a woman's midsection (between her breasts and knees), is form-fitting or transparent. A similar law in nearby Solok adds homosexuality and adultery to the list of banned activities.

¶18. (SBU) Despite protestations that the "morality" regulations are not shari'a laws, the mores that they prescribe are clearly linked to Islamic dictates: a ban on alcohol, the requirement that women cover their hair and bodies, a prohibition against consuming food or drink during Ramadan. Yet calling them morality laws may make them more palatable and acceptable to individuals who might otherwise reject the notion that God's law should replace secular laws.

Perda Syariah: Muslim Leaders' Arguments For...

¶19. (C) In fact, our discussions with a wide range of Muslim opinion leaders suggest that this strategy is working. While hardline and radical Islamist groups like Hizbut Tahrir Indonesia (HTI), Dewan Dakwah Islamiyah Indonesia (DDII), Persatuan Islam (PERSIS) and Abu Bakar Ba'asyir's Majelis Mujahidin Indonesia (MMI) openly advocate for the implementation of shari'a, mainstream organizations are more conflicted. Typical of this is the Prosperous Justice Party (PKS), a member of the governing coalition, which publicly claims that it supports Indonesia's secular system of government (especially in front of Western audiences). Most observers, however, believe that if given the chance, PKS would push for greater adherence to shari'a. When we raised the perda syariah issue with several PKS parliamentarians, a member who arrived to the meeting late (and did not have the benefit of being briefed by his more savvy colleagues) unapologetically declared that PKS supports the perda syariah. His colleagues visibly blanched at this rare deviation from the party's carefully crafted message.

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¶10. (C) Yet many other Muslim leaders have expressed genuinely mixed feelings on the perda syariah to us. One representative from the Indonesian Muslim Youth organization (PII) said that though his group does not support forced religion, perda syariah exist because society supports them; within a democratic system, he argued, this was the public's right. Similarly, a representative from the moderate Muslim Students' Association (HMI) commented that a country's government must reflect the wishes of society) if the people want shari'a-based rules, so be it (although he pointed out that there is no consensus on which interpretation of Islamic law should be used).

¶11. (C) As noted above, still others contend that public morality laws -- even those governing religious duties -- should not be considered shari'a. For instance, the head of the Bandung, West Java branch of the Indonesian Ulama Council (MUI) argued that none of West Java's laws qualifies as shari'a (even those mandating when individuals must pray), but simply constitute moral guidance to ensure that Muslims uphold their religious obligations. Yet even Indonesians who are less dogmatic than the MUI have said that the perda syariah do not offend their sensibilities. In an exchange that we have heard repeated in various forms from numerous individuals, a political science professor at Surabaya's Airlangga University told us that regulations such as those requiring Muslim women to cover their heads and compelling individuals to demonstrate their ability to read the Qur'an would be problematic only if they applied to non-Muslims.

For Muslims, however, "it is their duty."

¶12. (C) The leaders of Indonesia's two largest Muslim organizations, Nahdlatul Ulama (NU) and Muhammadiyah, have not taken public positions on the perda syariah. According to one contact on Muhammadiyah's central board, both NU's Hasyim Muzadi and Muhammadiyah's Din Syamsuddin have deliberately kept silent precisely because the public is so ambivalent -- rather than risk alienating their supporters by choosing sides, they prefer to hide behind ambiguity.

Lower-level leaders in NU and Muhammadiyah have also expressed discomfort to us about having to take a position in the perda syariah debate, although NU tends to come out more strongly against the perda syariah than Muhammadiyah. For instance, the chairman of Muhammadiyah Youth maintained that while his group opposed shari'a bylaws (noting the difficulty, among other issues, of determining whose interpretation of shari'a should be applied), he claimed that the appellation "shari'a" has been applied too loosely to include morality laws. Similarly, Rozy Munir, the head of NU's international relations committee, said that although NU opposes shari'a bylaws and does not favor an Islamic state, it also rejects the concept of a secular state.

...and Against

¶13. (C) Meanwhile, few Muslim intellectuals have joined women's and human rights organizations in condemning the perda syariah. Prominent feminist Lily Munir decried the bylaws as part of a "process of deception" that she believes Islamist hardliners are carrying out, cloaking anti-woman, anti-progressive tendencies in the sunnah. Munir argued that these are not truly shari'a laws, and said that their proponents are capitalizing on the general public's ignorance of the distinction between fiqh and shari'a. (Note. The two terms are often used interchangeably. Technically, shari'a is the word of God as written in the Qur'an, while fiqh derives from Islamic scholars' legal rulings about shari'a provisions. While the shari'a is immutable, fiqh is not. End Note). The executive director of the Muhammadiyah-linked Ma'arif Institute, Antoni Raja, concurs with Munir that the term "shari'a" has been perverted. For example, he said, there is no provision in shari'a or fiqh requiring that a Muslim be able to read the Qur'an before obtaining a marriage license. Claims that such a law is based on Islamic law, therefore, are false.

¶14. (C) Opponents of the perda syariah believe that the regulations are inconsistent with national laws in two separate ways. First, they say, since Indonesia's constitution is based on the principle of "pancasila" and not Islam, religiously based laws are unconstitutional. Second, the perda syariah are inconsistent with Indonesia's decentralization regulations, which specifically grant the

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national government sole authority over religious matters. However, as mentioned above, the Supreme Court has already upheld the only perda syariah contested in court to date: Tangerang's anti-prostitution regulation. Although anti-perda activists have suggested that the laws could be challenged in the Constitutional Court, legal experts contend that the Constitutional Court has no jurisdiction over local regulations (reftel).

¶15. (C) The Home Affairs Ministry, which has supervisory power over regional governments, does have the statutory authority to declare the perda syariah null and void. However, the ministry has declined to become involved, as has the central government more broadly. While President Yudhoyono has reportedly told women's groups privately that he does not support the shari'a bylaws, he has neither spoken out against nor taken any action to invalidate them. Our contacts attribute this largely to Yudhoyono's unwillingness to risk angering the Islamist parties in his coalition, but

note his fundamental indecisiveness as an exacerbating factor. Robin Bush of the Asia Foundation added that pro-shari'a Islamist groups have also been effective in silencing their critics by accusing them of being anti-Islam or handmaidens of the U.S.; this has made politicians especially afraid to oppose them.

Why Now?

¶16. (C) Our contacts give various reasons for the explosion of perda syariah, most of which are sociological rather than ideological. Saiful Mujani, executive director of the Indonesian Survey Institute, characterized the perda syariah as "a problem of democratization." In his opinion, illiberal forces have exploited the new decentralization laws to advance an anti-plural, anti-rational, and anti-democratic agenda from below. Muslim intellectual Bachtiar Effendy agreed, arguing that after Suharto's downfall, order and stability should have been established before political liberties were granted. When the opposite occurred, Effendy said, Indonesia's political and social systems broke down: the government does not govern, the educational system is utterly ineffectual, and children have no real prospects for the future. Consequently, people blame not only the state for these failures, but also secularism. This has created an opening for proponents of shari'a, who propose that Islam is the solution to Indonesia's ills.

¶17. (C) In a similar vein, NU's Rozy Munir described what he sees as a decline in public morality after the upheaval of the 1990s. Munir spoke of poverty; the sudden push for high economic growth that has left people without jobs, economic access or the ability to compete globally; rural-urban migration that continues to lure the unskilled to the cities, where they cannot find jobs; and competition for status-conferring luxury goods as factors exacerbating Indonesia's moral decay. Grappling with this profound dislocation, Indonesians have turned to the one thing that provides them with moral clarity: religion.

¶18. (C) Others are more cynical, believing that proponents of perda syariah are manipulating the public. The Ma'arif Institute's Raja told us that local governments are peddling visions of an Islamic utopia to mask their inability to deliver services, while Muslim liberal Syafi'i Anwar from the International Center for Islamic Pluralism contended that hardliners in organizations like the Indonesian Ulama Council (MUI) have taken advantage of ordinary Indonesians' respect for and deference to Muslim clerics to advance a radical agenda. Although Anwar says that the MUI has not directly pushed for the implementation of perda syariah, they have influenced popular perceptions by signaling their support for the regulations.

¶19. (C) Still others cite the influence that foreign Muslims, particularly Gulf Arabs, have brought to bear in promoting shari'a. Political science lecturers Muradi and Nasrullah Nazsir from Bandung's Padjadjaran University cited the case of Cianjur, West Java, which has passed a number of perda syariah. Cianjur is awash in Saudi money, and is home to Arab proselytizers who have moved permanently into the community, constructing mosques and buying land that is later donated for communal use. In doing so, Muradi and Nazsir said, the Arabs ingratiate themselves with the locals, who are then willing to move the society in a more religiously

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conservative direction in line with the pious Arabs' wishes, including implementing shari'a.

Whither Shari'a?

¶20. (C) Although most agree that the number of perda syariah will continue to increase in the shorter term, the majority

of our contacts think that this is a temporary phenomenon in most places (although the regulations might be longer-lived in historically more conservative areas like South Sulawesi and Aceh). Airlangga University's Aribowo, for example, sees the bylaws as a part of a transition process from over-centralization to effective decentralization. In his view, while it is relatively simple to push shari'a regulations through at the regency level or below, it will be significantly more difficult to do so at the provincial or national level. Effendy also believes the promotion of Islamic law is just a temporary phase in Indonesia, although he acknowledges that some people find this intolerable even in the short-term. However, he argues, neither conservative nor liberal Islam is right for Indonesia.

¶21. (SBU) This, of course, raises the question of just what degree of influence ordinary Indonesians feel Islamic values should have on laws governing their lives. Public opinion surveys fairly consistently reflect serious ambivalence on the public's part that largely mimics Muslim opinion leaders' views. Supporting the assumption that Indonesians favor democracy over theocracy is a September 2006 poll conducted by the Indonesian Survey Institute (LSI), in which 85% of respondents indicated that the current constitution and state doctrine of Pancasila provide the best framework for Indonesia; 76% likewise agreed that democratic values are compatible with Islam. Of those who indicated that Islam is incompatible with democracy, slightly more than half said that Islamic values are better for Indonesia than democratic ones.

¶22. (C) Similarly, there is little evidence of Islamist political parties gaining ground. In fact, a number of public opinion polls have shown that the most popular Islamist party, PKS, is actually losing support. Mujani, however, is skeptical of using support for Islamist political parties as a measure of sharia's popularity. Religious sentiment at the mass level has not been captured by the political parties, he argued, because Islamist political parties have so far failed to articulate an Islamic agenda and prominent Muslim elites like Amien Rais, Abdurrahman Wahid and Hasyim Muzadi have established non-Islamic parties that dilute the Islamist parties' strength.

¶23. (SBU) Yet public attitudes about specific shari'a-based practices seem to indicate a greater degree of support for Islamic law than the data above would suggest. For instance, in the LSI survey 50% of respondents agreed or strongly agreed that adulterers should be stoned to death, 37% agreed or strongly agreed that the government should sever the hands of Muslim thieves, 39% agreed or strongly agreed that men should be permitted to take more than one wife, and 37% agreed or strongly agreed that the charging of interest should be prohibited.

¶24. (C) At the same time, only 28% agreed or strongly agreed that the police should ensure that Muslims fast during Ramadan, and just 29% agreed or strongly agreed that the police should enforce attendance at Friday prayers. Padjadjaran University's Muradi and Nazsir have an explanation for this apparent contradiction: people will support shari'a regulations that are convenient for them, but reject those laws that affect them adversely. (We note, for example, that shari'a activists are not clamoring for confessed Muslim terrorists to be executed, as Islamic law prescribes for murderers.) The Asia Foundation's Robin Bush likewise suggested that self-interest largely drives popular reaction -- or lack thereof -- to the perda syariah. If the regulations have a negative impact on individuals personally, as the Tangerang statute did by limiting women's ability to go out after dark or the draft anti-pornography and pornographic action law did by proposing a host of restrictions on people's day-to-day activities, the general public may react negatively. Otherwise, she said, they will continue to be largely complacent, particularly about laws in localities far from their own.

Unintended Consequences

¶25. (C) The perda syariah has been denounced by women's groups, human rights organizations, and non-Muslims. Yet these opponents have had little success in reversing this trend. As the Ma'arif Institute's Toni Raja points out, the NGOs that are most actively fighting the perda are located only in Jakarta. Outside the capital, where the majority of the perda are being implemented, these groups have no credibility; as Raja commented, these Jakarta-based Indonesians are seen as "foreigners."

¶26. (C) There have been, however, some unintended consequences of the perda syariah movement. The vice rector of Bandung's Parahyangan Catholic University, Anak Agung Banyu Perwita, told us about a growing militant movement on the predominantly Hindu island of Bali. According to Banyu, who is Balinese, there is an increasingly large and vocal segment of Bali's population that is agitating for Balinese special autonomy, along the lines of Aceh's autonomy arrangement, to ensure that Islamic law cannot be imposed locally. The Balinese fear that shari'a-based laws banning alcohol or criminalizing skimpy dress would devastate their tourism-dependent economy, he said.

¶27. (C) Meanwhile, in West Irian Jaya's Manokwari, the local legislature has passed a "Christian perda" declaring the area a "Gospel" region. The law is similar in many ways to the morality laws cited above, with passages prohibiting prostitution and illegal drugs, and including Christian-specific provisions limiting public activities on Sundays and Christian holidays. But it goes further than many of the perda syariah by failing to exclude non-Christians from its dictates; indeed, non-Christians are specifically targeted. For example, the law prohibits the establishment of Muslim spaces of worship (like prayer rooms) near government offices, and it forbids all individuals from wearing headscarves in public and educational facilities, as well as in all public and private offices.

¶28. (C) When Jakarta will step in and assert its authority over the regions remains an open question. Yet as the regulations become more evidently sectarian in nature and, as in the case of the Manokwari bylaw, openly hostile towards other faiths, it seems that there will have to be some sort of recalibration by the central government. What is clear, however, is that Indonesian society's drift toward increased religiosity (however temporary it may be -- is both real and ongoing.

HEFFERN